UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.177
13 June 2002

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Guinea Bissau

1. The Committee considered the initial report of Guinea-Bissau (CRC/C/3/Add.63) at its 780th and 781st meetings (see CRC/C/SR.780-781), held on 22 May 2002, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's frank and informative initial report and the written replies to its list of issues (CRC/C/Q/GUIB/1). The Committee also welcomes the fact that the State party was represented by a high-level delegation, and the constructive dialogue that took place.

B. Positive factors

3. The Committee welcomes:

(a) The initiation of the process of ratification by Parliament in December 2001, of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflicts, and on the sale of children, child prostitution and child pornography;

(b) The ratification in 2000, of the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and their Destruction, and the creation of the National Council for Anti-Mines Action.

* At the 804th meeting, held on 7 June 2002.

4. The Committee also welcomes:

(a) The creation of the Institute for Women and Children in 2000;

(b) The fact that the Committee against Harmful Practices has been legally institutionalized;

(c) The prohibition, under law, of corporal punishment in the family and schools and other contexts.

5. The Committee notes the State party's:

(a) Efforts to consult children through the "children's fortnight" mechanism, which places emphasis on children's views over a two-week period, and the holding of a children's parliament;

(b) Development of the "FIRKIDJA" programme in support of basic education and focusing on access to education, the quality of education and strengthening education management;

(c) Efforts to improve understanding and knowledge of children's rights among the general public and children through information campaigns, including the "children's voice" radio programme as described in the State party report in, inter alia, paragraphs 67, 97 and 123.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee notes with deep concern that a series of factors very seriously impede the implementation of children's rights, notably in the areas of health and education. The Committee notes, in particular, that the armed conflict in 1998/1999 had a very damaging impact on the country's infrastructure, including upon education and health services. The Committee recognizes the very poor economic conditions in the State party, the weight of its external debt and that a large proportion of the population lives in deep poverty and the country ranks very low on the Human Development Index. Finally, the Committee notes the low literacy level among the population in general and the burden of longstanding traditions some of which hinder the Convention's implementation.

D. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)

Legislation

7. The Committee is concerned to note that:

(a) There is "an absence of specific legislation on the implementation of the Convention", as indicated in paragraph 61 of the State party's report;

(b) The Law on Children's and Women's Protection, which was approved by Parliament in 1997, has not been implemented and that the status of this law, according to the delegation, is unclear;

(c) The review of, inter alia, penal law and family and labour legislation has not produced concrete results so far;

(d) Customary law which does not fully comply with the Convention is applied much more often than national legislation, particularly on issues relevant to children, girls/women and the family.

8. **Noting as a positive step the reactivation by the Parliament of the Ad Hoc Commission for the Child and Woman, the Committee urges the State party:**

(a) To strengthen and speed up the process of revision and harmonization of national laws in the light of and in accordance with the principles and provisions of the Convention;

(b) Take the necessary steps, including involving the community and traditional leaders, to bring customary law practices into compliance with the provisions and principles of the Convention;

(c) Seek technical assistance from the United Nations Children's Fund (UNICEF) and the Office of the High Commissioner for Human Rights (OHCHR).

Implementation, coordination, monitoring and national plan of action

9. While noting the creation of the National Council for Childhood (see paragraphs 100 and 126 of the State party's report) and the recent establishment of the Institute for Women and Children (see the State party's replies to the list of issues, Part III), the Committee remains deeply concerned at:

(a) The lack of a well defined and comprehensive children's rights policy and an up-to-date national plan of action for the implementation of the Convention;

(b) The many difficulties encountered in the coordination and evaluation of the implementation of the Convention;

(c) The lack of monitoring of the implementation of the Convention.

10. **The Committee urgently recommends that the State party:**

(a) Develop and implement a comprehensive child rights policy and National Plan of Action, to replace the 1992 Plan;

(b) Provide the National Council for Childhood or the Institute for Women and Children with the necessary financial and human resources in order to allow one of these bodies to perform the role of promoting and coordinating activities for the implementation of the rights of women and children;

(c) The Committee urgently recommends that the State party establish an independent and effective mechanism in accordance with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134), provided with adequate human and financial resources and easily accessible to children;

(d) Seek technical assistance from UNICEF and OHCHR.

Resources for children

11. The Committee is deeply concerned that budget allocations for services such as health and education are extremely low. In addition, sole dependence on foreign assistance raises concerns as to the sustainability of the required resources. The Committee notes, further, that teachers and many other State employees often do not receive their salaries.

12. **With view to the State party's strengthening of its implementation of article 4 of the Convention, and in the light of articles 2, 3 and 6, the Committee recommends that the State party:**

(a) Establish a clear policy on the allocation of resources in favour of children, including those resources allocated by international agencies or bilateral assistance;

(b) Prioritize budgetary allocations to ensure implementation of the rights of children to the maximum extent of available resources and, where needed, within the framework of international cooperation;

(c) Ensure the payment of salaries to State employees whose work is essential for the respect of children's rights.

Data collection

13. The Committee is concerned at the absence of reliable data and the lack of an adequate data collection mechanism.

14. **The Committee urges the State party to:**

(a) Systematically collect disaggregated quantitative and qualitative data on all the areas covered by the Convention and all children below the age of 18 years;

(b) Give particular attention to data on children in need of special protection;

(c) Use the data collected to support monitoring and evaluation of the implementation of the Convention;

(d) Seek technical assistance from, inter alia, the United Nations Population Fund (UNFPA) and UNICEF.

Cooperation with NGOs

15. Noting the State party's strong collaboration with national and international NGOs and the major contribution made by NGOs to the implementation of the Convention, the Committee is convinced that the NGO contribution and the collaboration of the State party with NGOs could be strengthened further and become more systematic.

16. **The Committee recommends that the State party:**

(a) Continue and further strengthen its systematic collaboration with NGOs;

(b) Improve coordination of State party activities with those of NGOs with regard to the implementation of the Convention, including through the establishment of a coordination mechanism for this purpose.

Dissemination of the Convention

17. While noting the State party's efforts to promote the Convention, including in schools, the Committee remains concerned that there is insufficient awareness of the Convention among children, professionals working with children, parents and the public in general.

18. **The Committee recommends that the State party:**

(a) Strengthen its efforts to disseminate the principles and provisions of the Convention, as a means of sensitizing society to children's rights;

(b) Involve local communities in its programmes in order to prevent and combat customs and traditions that impede the implementation of the Convention, and ensure that dissemination efforts reach, inter alia, parents, persons who are illiterate and children themselves;

(c) Undertake systematic education and training on the provisions of the Convention for all professional groups working for and with children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal and local workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists and paediatricians, and social workers;

(d) Consider introducing human rights education, including on the rights of the child, into the curricular and extracurricular activities of all schools;

(e) Seek technical assistance from, inter alia, UNICEF.

2. Definition of the child (art. 1 of the Convention)

19. The Committee is concerned that:

(a) Differences in the minimum legal age of marriage for girls (14) and boys (16) is discriminatory and that, in practice, the marriage of girls at age 13 or 14 is common;

(b) Boys under the age of 16 are legally permitted to join the armed forces if they have parental agreement and that children well under the age of 16 were recruited into armed forces in 1998 and 1999, during the internal armed conflict.

20. **The Committee recommends that the State party:**

(a) Raise the minimum legal age of marriage of girls so that it is the same as for boys and enforce respect for this minimum age;

(b) Clearly define the legal minimum age at which children can be recruited into the armed forces, raising the age limit to comply, at a minimum, with the standards set in the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and ensure enforcement of these standards.

3. General principles (arts. 2, 3, 6 and 12 of the Convention)

Discrimination

21. The Committee is concerned that:

(a) The list of criteria for which discrimination is prohibited under the Constitution, as described in the State party's report (para. 146), is limited in relation to article 2 of the Convention and omits, notably, discrimination on the grounds of political belief;

(b) As noted in the State party's report (para. 140) "girls are highly penalized not only at the level of the family but in society in general";

(c) Discrimination against children with disabilities is prevalent.

22. **The Committee recommends that the State party:**

(a) Amend the legislation to ensure that it fully corresponds with the provisions of article 2 of the Convention;

(b) Formulate policies and programmes with a view to addressing discrimination against specific groups of children, in particular girls and children with disabilities.

23. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of**

Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and that take into account General Comment No. 1 on article 29.1 of the Convention (aims of education).

Best interests of the child

24. The Committee is concerned that:

(a) The principle of the "best interests of the child" has not been fully implemented by the State party or reflected in legislation, policy, programmes or activities;

(b) As indicated by the State party in its replies to the list of issues, the principle of the best interests of the child is not reflected at all in customary law.

25. **The Committee recommends that the State party:**

(a) Urgently implement the principle of the best interests of the child in all of its activities relating to children and the implementation of the Convention, including legislation, policy, programmes and activities;

(b) Ask for international assistance to undertake a study on the best interest principle and its implementation, in order to ensure the wide application of this principle by the Government and throughout society.

Respect for the views of the child

26. Noting the establishment of the Children's Parliament and the Children's Fortnight, the Committee remains concerned that, as noted in the State party's report (para. 155), children's opinions are not given sufficient consideration in Guinean society.

27. **The Committee recommends that the State party ensure that children's views are given due consideration, in accordance with article 12 of the Convention, in the family, in schools and in all relevant administrative and other processes concerning them through, inter alia, the adoption of appropriate legislation, the training of professionals and the establishment of specific activities in schools.**

4. Civil rights and freedoms (arts. 7, 8. 13-17 and 37 (a))

Name and nationality

28. Noting the significant efforts by the State party to improve birth registration, the Committee remains concerned that not all children are registered at birth and that the imposition of a financial fine upon parents who register the birth of their child after the expiry of the official deadline is a hindrance to birth registration.

29. **The Committee recommends that the State party:**

(a) Review its birth registration procedures, consider the abolition of sanctions for late registration and continue to use creative means of increasing birth registration (such as the use of mobile registration units in rural areas and sensitization campaigns), with a view to ensuring the systematic registration of all births;

(b) Seek technical assistance from UNICEF.

5. Family environment and alternative care (arts. 5, 18, paras. 1-2, 9-11, 19-21, 25, 27, para. 4, and 39)

Ill-treatment and abuse

30. The Committee is concerned that:

(a) Sexual abuse of children within the family, including the extended family, is a regular occurrence;

(b) Corporal punishment is widely practised in the family;

(c) Domestic violence, particularly against women, is widespread and frequently used as a way to resolve family conflicts, and that this violence, even when not directly inflicted upon children, has a very negative impact on their development.

31. **The Committee recommends that the State party:**

(a) Undertake a study on the extent of abuse and ill-treatment of children in the family;

(b) Take steps to end the sexual abuse of children, including through improving the access of children and adults to reporting mechanisms, and increasing the investigation of cases and the prosecution of the persons responsible;

(c) Combat the practice of corporal punishment of children in the family, including through the use of information campaigns on the harm it can cause and on the importance of alternative measures of discipline;

(d) Take all appropriate measures to address and prevent domestic violence, whether physical or mental, within the family and to ensure the full protection of children against this type of violence;

(e) Raise awareness among the public of the problem of domestic violence, with a view to changing traditions that inhibit victims, particularly women and girls, from reporting it;

(f) Investigate cases of domestic violence and sexual abuse, through a child-sensitive judicial procedure, and that sanctions be applied to perpetrators with due regard given to guaranteeing the right to privacy of the child;

(g) In the light of articles 19 and 39 of the Convention, implement measures for reporting, referral and intervention and for the rehabilitation of victims, with a view to ensuring the recovery and reintegration of victims;

(h) Take note of the recommendations of the Committee's days of general discussion on violence against children.

Separation from parents and alternative care

32. The Committee is concerned that:

(a) As noted in the State party's report, there are insufficient administrative and judicial mechanisms through which children's rights can be protected when they are separated from their parents;

(b) Alternative care for these children is insufficient;

(c) The common use of "informal adoption" procedures can lead to the violation of children's rights.

33 **The Committee recommends that the State party:**

(a) Strengthen the existing child protection structure or, if necessary, establish new structures through which the rights of the child are well protected;

(b) Establish or strengthen alternative care services (such as kinship, foster care and family type homes), avoiding institutional care as far as possible, and ensure that informal adoption procedures respect and contribute to the protection of the principles and provisions of the Convention;

(c) Provide child protection workers (professionals and volunteers) with training (including on the Convention) and sufficient financial resources to fulfil their role;

(d) Seek assistance through international cooperation, including from UNICEF.

6. Basic health and welfare (arts. 6, 18, para. 3, 23, 24, 26, 27, paras. 1-3)

34. The Committee is deeply concerned at:

(a) The limited access to, capacity and quality of health-care services, including in terms of distance between people's homes and health facilities, cost and the insufficient number of hospital beds and the limited availability of affordable and appropriate medication;

(b) The high rates of infant and maternal mortality, malnutrition inadequate immunization and high mortality from malaria;

(c) The limited proportion of the population with access to safe water and adequate sanitation, including in schools, and related cholera and meningitis epidemics;

(d) Low levels of health education within communities.

35. **The Committee recommends that the State party:**

(a) Significantly increase its expenditure on health;

(b) Significantly improve children's access to health services and to medication including by strengthening the quality and capacity of the health infrastructure, providing financial assistance or free medical care to children in need of such support and their families and addressing the access concerns of those children living in isolated rural communities;

(c) Take action to address specific concerns, including infant and maternal mortality, malnutrition, inadequate immunization, malaria rates and cholera and meningitis epidemics;

(d) Take action to ensure that all children have access to drinking water and adequate sanitation, including in schools, and to ensure adequate waste disposal arrangements;

(e) Seek assistance through international cooperation in this regard.

Children with disabilities

36. While noting that a major effort has been made to address the situation of children with disabilities since 1986 (see report, para. 189), the Committee remains concerned that:

(a) The rights of children with disabilities are very poorly respected (see report, para. 187), societal discrimination is prevalent against children with disabilities, including children with Down's syndrome, and there are cases of the killing of newborn children who have physical disabilities;

(b) As indicated in the State party's report, the law does not prohibit discrimination against the disabled specifically, there is no law mandating accessibility for persons with disabilities and existing legislation with regard to children with disabilities is not implemented;

(c) There is a lack of health, educational or professional training facilities for children with disabilities (see report, para. 147) and, in particular, children with disabilities have very limited access to formal education;

(d) Children with disabilities often have serious difficulty in gaining access to public buildings, including hospitals and schools.

37. **The Committee recommends that the State party, in the spirit of the United Nations Guidelines on Disabilities and the results of the Committee's day of general discussion on the rights of children with disabilities:**

(a) Develop or amend legislation to ensure that discrimination on the grounds of disability is prohibited and that children with disabilities have access to public transportation and public buildings, including all schools and hospitals;

(b) Ensure the implementation of all legislative measures of protection for children with disabilities, in particular with regard to non-discrimination, giving attention to practices such as the killing of newborn children with disabilities;

(c) Significantly strengthen its assistance to children with disabilities and ensure, inter alia, that they have access to health, educational and professional facilities;

(d) Review the recommendations made at the First National Conference on Disabled People (see report, para. 190) and implement those recommendations which remain valid;

(e) Revive services established to assist persons with disabilities in the past, but which are no longer functioning, or functioning only in part (see report, paras. 195-198);

(f) Seek international cooperation in this regard.

Adolescent health

38. The Committee is concerned that insufficient attention is given to the prevention of adolescent health concerns.

39. **The Committee recommends that the State party strengthen its efforts to address adolescent health concerns, with a particular focus on prevention and the provision of adequate reproductive health education.**

HIV/AIDS

40. The Committee is deeply concerned at the negative impact of the growing rate of HIV/AIDS infection on the cultural, economic, political, social and civil rights and freedoms of children infected with or affected by HIV/AIDS, including the Convention's general principles, with particular reference to the rights to non-discrimination, to health care, education, food and housing, as well as to information and freedom of expression.

41. **The Committee recommends that the State party:**

(a) Integrate respect for the rights of the child into the development and implementation of its HIV/AIDS policies and strategies on behalf of children infected with and affected by HIV/AIDS, as well as their families, including by making use of the Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I) and with particular reference to children's rights to non-discrimination, health, education, food and housing, as well as to information and freedom of expression;

(b) Make every effort to provide for the treatment of children and their parents infected by HIV/AIDS;

(c) Strengthen programmes to prevent the transmission of HIV/AIDS and to ensure protection of the rights of AIDS orphans;

(d) Take note of the results of the Committee's day of general discussion on children living in a world with AIDS (5th October 1998);

(e) Seek international cooperation in this regard.

Harmful traditional practices

42. Noting the work undertaken to address female genital mutilation and other harmful practices, including through international cooperation, the Committee remains deeply concerned that:

(a) As indicated in the State party's report, the early marriage of girls - often around the age of 13 or 14 - is common (see report, para. 33) and can lead to poor health for girls;

(b) Female genital mutilation is practised widely within certain ethnic groups, especially the Fulas and the Mandinkas;

(c) As indicated in the State party's report (para. 202), traditional food taboos are common and thought to be one cause of malnutrition among children and mothers.

43. **The Committee recommends that the State party:**

(a) Make every effort to combat practices involving the early marriage of girls, including through the involvement of community leaders and the use of education campaigns;

(b) Continue and strengthen its efforts to end practices of female genital mutilation, for example through legislative prohibition, through the implementation and enforcement of legislation and through public awareness campaigns;

(c) Take steps to end the practise of harmful traditional food taboos by children and mothers;

(d) Strengthening and further supporting the work of the Committee against harmful practices;

(e) Seek cooperation with countries in the region that have positive experience of combating these harmful practices.

7. Education, leisure and cultural activities (arts. 28, 29, 31)

44. Despite increases in school enrolment over the past decade, the Committee remains concerned that:

(a) Literacy rates and primary and secondary school enrolment rates among children are extremely low;

(b) There are major differences in the access of children to education across the country;

(c) Literacy and enrolment among girls are much lower than the already worrying rates for boys;

(d) Primary education, where available, is of a low quality and many schools offer only the 1st and 2nd grades and few offer more than four years of education;

(e) Schools lack adequate books and materials;

(f) Only 1 per cent of children have access to nurseries, kindergartens or similar institutions (see report, para. 217);

(g) Many teachers have not received any formal training;

(h) The number and quality of special education institutions are extremely limited;

(i) Ninety per cent of education costs are supported by external assistance (see report, para. 216).

45. **The Committee recommends that the State party:**

(a) Raise the State party's contribution to the education budget to the maximum of available resources, while also continuing to seek support through international cooperation;

(b) Strengthen education infrastructure, including with regard to administration, management, educational planning, the quality of education in general, the training of teachers and other staff, the construction of additional schools and classrooms, and the provision and quality of textbooks and other school materials and equipment;

(c) Consider strengthening the quality of primary and secondary school curricula, taking into consideration the Committee's General Comment on article 29.1 of the Convention and the aims of education (CRC/GC/2001/1);

(d) Urgently take action to increase the proportion of children enrolling in primary school and completing compulsory education;

(e) Urgently give special attention to raising the proportion of girls completing their primary and secondary education, including through affirmative action and similar special measures, and by ensuring that girls have the same opportunities as boys to attend formal education, that the education of girls is seen by parents, families and communities, as being of equal importance to that of boys and that education is seen as the right of all children;

(f) Make every effort to ensure that compulsory education is free for all children, including with regard to textbooks and uniforms for disadvantaged children and families;

(g) Increase the number, capacity and quality of special education institutions;

(h) Seek technical assistance from UNICEF and UNESCO in this regard.

Leisure

46. The Committee is concerned that children living in urban centres have very few areas, such as parks, in which they can play safely and that the State party itself notes in its report the absence of parks in the country (para. 230).

47. **The Committee recommends that the State party:**

(a) Ensure the existence of areas, such as parks, within urban centres, which may be used by children for leisure activities;

(b) Consider the adoption of legislation or administrative rules, and the allocation of an appropriate budget, to ensure that leisure areas for children are maintained as a priority in urban planning decisions.

8. Special protection measures (arts. 22, 38, 39, 40, 37 (b)-(d), 32-36)

Children in armed conflict

48. The Committee is concerned that:

(a) Children were involved in the recent internal armed conflict, inter alia, as combatants, and that many children may have suffered from psychological trauma as a result;

(b) Child soldiers may not have received support towards demobilization and family and social reintegration;

(c) There continue to be a considerable number of landmines that place children at risk.

49. **The Committee recommends that the State party:**

(a) Ensure the demobilization of all under-age soldiers, providing such children with assistance to this end and in family and social reintegration;

(b) Take steps to assess and respond to the needs of child soldiers in terms of psychological assistance;

(c) Continue its landmine detection programme;

(d) Seek international assistance in the form of technical support, including from UNICEF, in this regard.

Commercial exploitation

50. While noting the efforts under way to address this concern, the Committee is concerned that, as noted by the State party in its report, the economic exploitation of children is extremely serious and growing worse (paras. 250-253) and that, in particular (para. 142), the numbers of children working in the non-formal sector are increasing and that children are often compelled to perform the same work as adults, in highly difficult and dangerous conditions.

51. **The Committee recommends that the State party make every effort to:**

(a) Combat the economic exploitation of children through labour, with particular regard to the informal work sector;

(b) Ensure respect for the minimum age of employment, in accordance with international standards;

(c) Ensure that working children above the age of 14 benefit from adequate and full protection, including with regard to conditions of work and pay;

(d) Make every effort to ensure that children who work continue to have access to education;

(e) Ratify and implement ILO Conventions 138 concerning the Minimum Age for Admission to Employment and 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Street children

52. The Committee is concerned at the number and situation of street children in urban regions of the country.

53. **The Committee recommends that the State party make every effort to provide assistance to these children and to address the causes leading children to live on the streets.**

Sexual exploitation, trafficking

54. The Committee is concerned at the lack of information regarding the activities of the very high proportion of children who do not go to school. There are indicators that these children may, in urban areas, be involved in prostitution or may spend much time on the street, where they are vulnerable to many kinds of exploitation (for example, drug-trafficking, sexual exploitation, drug abuse).

55. **The Committee recommends that the State party:**

(a) Undertake a study to assess the situation of children not attending school and to implement, based on the results of the study, all appropriate measures to protect effectively children from all forms of exploitation, including through prevention and the rehabilitation and recovery of child victims;

(b) Prepare a plan of action to address the sexual exploitation of children, taking note of the recommendations made in the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;

(c) Seek regional cooperation in this regard.

Substance abuse

56. While noting the State party's efforts in this regard, the Committee is concerned that, as indicated in the State party's report, substance abuse by children is a major concern.

57. **The Committee recommends that the State party take action to combat substance abuse by children, including through public education campaigns, and seek regional cooperation in this regard.**

Administration of justice

58. The Committee is concerned that, as noted by the State party in its report:

(a) With regard to "the judicial level of services" legislation is insufficient and ineffective, and that the judicial system lacks courts and trained staff to deal with juveniles in conflict with the law (para. 106);

(b) There are no institutions for the prevention of crime among minors and for their rehabilitation (para. 241);

(c) Minors are sometimes held with other persons (for example, adults or convicted persons) from whom they should normally be separated;

(d) The rights of children are not fully respected in instances where customary law is applied.

59. **The Committee recommends that the State party:**

(a) Amend and/or adopt and implement legislation providing for the full application of the juvenile justice infrastructure and system, in accordance with the provisions of the Convention and other international standards;

(b) In this regard, develop mechanisms and provide adequate resources, including with regard to the establishment of juvenile justice courts, to ensure the full implementation of juvenile justice standards, and in particular, articles 37, 40 and 39 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);

(c) Ensure that detention or imprisonment of children is used only as a measure of last resort and that children are detained or imprisoned separately from adults;

(d) Make efforts to ensure that the practise of traditional law, where it involves children, is in full accordance with the rights afforded to children under the Convention;

(e) Seek assistance from, inter alia, the Office of the High Commissioner for Human Rights, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance in Juvenile Justice.

Dissemination of the report

60. **Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records of the discussion and concluding observations adopted by the Committee following its consideration of the report. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring at all levels of administration of the State party and by the general public, including concerned non-governmental organizations.**

Reporting

61. **In the light of the recommendation on reporting periodicity adopted by the Committee and described in its report on its twenty-ninth session (CRC/C/114), the Committee, aware of the considerable delay in the State party's reporting, underlines the importance of reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine progress made in the implementation of the Convention. In this regard, regular and timely reporting by State parties is crucial. The Committee recognizes that some States parties experience difficulties in initiating timely and regular reporting. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its 2nd, 3rd and 4th reports in one consolidated report by 18 September 2007. The Committee expects the State party to report thereafter every 5 years, as foreseen by the Convention.**

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CRC

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Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.178
13 June 2002

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Belgium

1. At its 782nd and 783rd meetings (see CRC/C/SR.782-783), held on 23 May 2002, the Committee on the Rights of the Child considered the second periodic report of Belgium (CRC/C/83/Add.2) and adopted* the following concluding observations.

A. Introduction

2. The Committee notes with appreciation that the report followed the guidelines for reporting. It notes that the report was timely, comprehensive and self-critical in nature, as were the written replies to its list of issues (CRC/C/Q/BELG/2) and welcomes the additional information provided in annexes. The discussion in the report on the follow-up to the Committee's earlier recommendations was especially appreciated. The Committee also notes with appreciation the presence of a high-level delegation, which contributed to an open dialogue and a better understanding of the implementation of the Convention in Belgium.

* At the 804th meeting, held on 7 June 2002.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes:

The adoption of article 22 bis of the Constitution on the protection of children;

The adoption of new laws by the State party concerning the protection of children, child labour, guardianship and family mediation;

The numerous initiatives to combat trafficking and child sexual exploitation, among others: the introduction of Joint Actions under the Europol Convention; the establishment of a national commission of experts to study sexual exploitation of children; the establishment of Child Focus, a European centre for missing and exploited children; the adoption of three Acts in 1995 to combat sexual exploitation; and the reform of the Criminal Code;

The ratification of the Optional Protocol to the Convention on the involvement of children in armed conflict; and

The ratification of ILO Convention No. 182 on the Worst Forms of Child Labour.

C. Principal subjects of concern and recommendations

The Committee's previous recommendations

4. The Committee regrets that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.38) after its consideration of the State party's initial report (CRC/C/11/Add.4) have been insufficiently addressed, particularly those contained in paragraphs 8, 9, 11 and 13 to 16. Those concerns and recommendations are reiterated in the present document.

5. **The Committee urges the State party to make every effort to address the previous recommendations that have not yet been implemented and the list of concerns contained in the present concluding observations.**

1. General measures of implementation

Reservations and declarations

6. The Committee appreciates the fact that the State party has reviewed its declaration on article 2 and its reservation to article 40.2 (v) of the Convention, pursuant to the previous concluding observations. Nevertheless, it is concerned that the State party does not intend to withdraw them. With respect to article 2, the Committee, noting that the general principle of non-discrimination in the Convention prohibits differences in treatment on grounds that are arbitrary and objectively unjustifiable, including nationality, is concerned that the declaration on article 2 may restrict the enjoyment of non-Belgian children in Belgium of rights contained in the Convention. The Committee emphasizes that the guarantee of non-discrimination in the

Convention applies to "each child within [the State party's] jurisdiction". With respect to the reservation to article 40, the Committee is concerned that the possibility of appeal to the Court of Cassation against judgements and measures imposed by the Court of Assizes (sitting here as the court of first and last instance) is strictly limited to points of law and therefore deprives the defendant of a full review of his case by a higher court, which is all the more important in that the Court of Assizes handles the most severe cases and imposes relatively heavy sentences.

7. **The Committee encourages the State party to review its declaration and reservation with a view to withdrawing them in accordance with the Declaration and Programme of Action of the Vienna World Conference on Human Rights (1993).**

Legislation

8. The Committee welcomes the information provided by the State party on draft laws concerning the rights of the child, including with respect to adoption, guardianship for unaccompanied minors, access to courts and guarantees of due process.

9. **The Committee recommends that the State party:**

(a) Rigorously review these laws and ensure that they and other laws concerning children, as well as administrative regulations, are rights-based and conform to international human rights standards, including the Convention;

(b) Ensure that adequate provision is made for their effective implementation, including budgetary allocation;

(c) Ensure their speedy promulgation.

Coordination

10. The Committee notes the establishment, since the initial report was considered, of the Inter-Ministerial Conference for the Protection of Child Rights and the agreement on the creation of a national commission for the rights of the child. However, the Committee remains concerned: at the absence of a global vision of children's rights and its translation into a national plan of action; that different laws governing different administrative jurisdictions may lead to discrimination in the enjoyment of children's rights across the State party; that the absence of a central mechanism to coordinate the implementation of the Convention in Belgium makes it difficult to achieve a comprehensive and coherent child rights policy.

11. **The Committee recommends that the State party:**

(a) Expedite the formal approval and full implementation of the above-mentioned agreement in order to establish a national commission for the rights of the child and provide it with adequate human and financial services;

(b) Assign coordination of the implementation of the Convention to a highly visible and easily identifiable permanent body with an adequate mandate and adequate resources;

(c) Prepare and implement a comprehensive national plan of action for the implementation of the Convention, paying special attention to children belonging to the most vulnerable groups (e.g. poor households, asylum-seekers), through an open, consultative and participatory process;

(d) Continue and expand the use of child impact assessments in the formulation of budgets and policies.

Monitoring structures

12. The Committee notes the establishment, since the initial report was considered of the Children's Rights Commissioner for the Flemish Community. The Committee acknowledges the activities of the Délégué Général aux Droits des Enfants in the French Community and of the Centre for Equal Opportunities and Opposition to Racism. However, the Committee is concerned that there is no independent mechanism to monitor the implementation of the Convention and empowered to receive and address complaints of children in the German-speaking Community, nor at the federal level.

13. **The Committee recommends that the State party:**

(a) Establish independent human rights institutions in the German-speaking Community and at the federal level, in accordance with the Paris Principles (General Assembly resolution 48/134), to monitor and evaluate progress in the implementation of the Convention. They should be accessible to children and empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and to address them effectively;

(b) Ensure that all the human rights institutions have formal advisory functions with the respective legislative bodies and that they establish formal links with each other.

Data collection

14. The Committee welcomes the statistical annexes provided with the list of issues; notes measures under way to improve data collection in offices processing asylum claims; and welcomes the information that a working group on statistics will be set up within a national study forum on juvenile delinquency. Nevertheless, with reference to its previous concluding observations, the Committee is still concerned at the absence of a nationwide mechanism to collect and analyse data on the areas covered by the Convention.

15. **The Committee recommends that the State party establish a nationwide system such that disaggregated data are collected on all persons under 18 years for all areas covered by the Convention, including the most vulnerable groups (e.g. non-nationals, children with**

disabilities, children of economically disadvantaged households, children in conflict with the law, etc.), and that these data are used to assess progress and design policies to implement the Convention.

Training/dissemination of the Convention

16. The Committee welcomes the information that the State party has made available compilations of the initial report, the summary records of the meetings at which it was discussed, and the Committee's concluding observations. It also welcomes the information concerning special publications for disabled children. However, the Committee is concerned that the State party is not undertaking adequate dissemination, awareness-raising and training activities concerning the Convention in a systematic and targeted manner.

17. **The Committee recommends that the State party:**

(a) Strengthen and make ongoing its programme for the dissemination of information on the Convention and its implementation among children and parents, civil society and all sectors and levels of government, including initiatives to reach vulnerable groups, such as new immigrants;

(b) Develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers and health personnel).

2. General principles

The right to non-discrimination

18. The Committee welcomes the Decree of March 2000 expanding the mandate of the Centre for Equal Opportunities and Opposition to Racism to include all forms of discrimination, including grounds of gender, sexual orientation, birth, civil status, ill health, age and disability. The Committee is concerned at racist incidents against minorities; the disparities in the enjoyment of economic and social rights, particularly health and education, experienced by poor children, non-Belgian children, including unaccompanied minors, and disabled children.

19. **In accordance with article 2 of the Convention, the Committee recommends that the State party:**

(a) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes, and implement the recommendations of the Committee on the Elimination of Racial Discrimination (March 2002);

(b) Take all necessary measures to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination;

(c) Continue to prioritize and target resources and social services to children belonging to the most vulnerable groups;

(d) Review existing policies and practice in relation to children with disabilities, including draft legislation, with due regard to the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and to the Committee's recommendations adopted at its day of general discussion on children with disabilities (see CRC/C/69).

20. **The Committee requests that specific information be included in the next periodic report on measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party in follow-up to the Declaration and Programme of Action adopted by the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of General Comment No. 1 on article 29.1 of the Convention (aims of education).**

Respect for the views of the child

21. The Committee welcomes the information that several structures have been set up with the support of the State party through which children can make their views known. These include conferences, courses on children's rights, councils in schools and communities, and the "What do you think?" project. However, the Committee is concerned that children are not adequately informed on how they can have input into policies that affect them, nor how their views will be taken into consideration once they have been solicited; and that sufficient attention has not been accorded to the participation of primary and secondary students in school governance, including in areas such as school regulations and management of discipline. With respect to court or administrative proceedings affecting the child, the Committee is concerned that the right to be heard is largely discretionary under article 931 of the Judicial Code, and is not adequately guaranteed to the child. The Committee welcomes the information concerning a draft law in this regard.

22. **The Committee recommends that the State party, in accordance with article 12, take further steps to promote and facilitate meaningful participation of children in society, including in schools. Moreover, it recommends that legislation governing procedure in courts and administrative proceedings ensure that a child capable of forming his/her own views has the right to express those views and that they are given due weight.**

3. Civil rights and freedoms

Violence/abuse/neglect/maltreatment

23. The Committee notes with satisfaction the numerous initiatives taken in the area of child abuse, including sexual abuse, such as the Law on the Criminal Protection of Minors (of 28 November 2000), amendments to the Criminal Code and the adoption of article 22 bis of the Constitution concerning the protection of the child's moral, physical and sexual integrity. But it remains concerned that corporal punishment is not expressly prohibited by law.

24. **The Committee recommends that the State party:**

(a) Take legislative measures to prohibit corporal punishment of children in the family, in schools and in institutions;

(b) Continue to carry out public education campaigns about the negative consequences of corporal punishment and promote positive, non-violent forms of discipline;

(c) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, and to intervene where necessary;

(d) Prosecute in cases of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and his/her privacy is protected;

(e) Provide for the care, recovery and reintegration for victims;

(f) Strengthen the reporting system, through full support of the confidential centres for abused children, and train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment.

Human rights education

25. The Committee is concerned that the aims of education outlined in article 29 of the Convention, including the development and respect of human rights, tolerance and equality of the sexes and religious and ethnic minorities is not explicitly part of the curricula throughout the State party.

26. **The Committee recommends that the State party, taking into account the Committee's General Comment No. 1 on the aims of education, include human rights education, including children's rights, in the curricula of all primary and secondary schools, particularly with respect to the development and respect of human rights, tolerance and equality of the sexes and religious and ethnic minorities.**

4. Special measures of protection

Unaccompanied minors

27. The Committee welcomes the creation of a special bureau for unaccompanied minors in the Aliens Office for handling their requests to stay. It also notes a number of other activities, among others: concerning the establishment of special reception centres for unaccompanied minors; a draft law on the creation of a guardianship service, access to education and missing persons, which contains provisions on unaccompanied minors. But there are not yet, as the Government acknowledges, specific regulations for unaccompanied minors, whether seeking asylum or not.

28. In accordance with the principles and provisions of the Convention, especially articles 2, 3 and 22, and with respect to unaccompanied persons under 18 years of age, the Committee recommends that the State party:

(a) Expedite efforts to establish special reception centres for unaccompanied minors, with special attention to those who are victims of trafficking and/or sexual exploitation;

(b) Ensure that the stay in those centres is for the shortest time possible and that access to education and health is guaranteed during and after the stay in the reception centres;

(c) Approve as soon as possible the draft law on the creation of a guardianship service, in order to ensure the appointment of a guardian for an unaccompanied minor from the beginning of the asylum process and thereafter as long as necessary, and make sure that this service is fully independent, allowing it to take any action it considers to be in the best interests of this minor;

(d) Ensure unaccompanied minors are informed of their rights and have access to legal representation in the asylum process;

(e) Improve cooperation and exchange of information among all the actors involved, including the Aliens Office and other relevant authorities, police services, tribunals, reception centres and NGOs;

(f) Ensure that, if family reunification is carried out, it is done in the best interests of the child;

(g) Expand and improve follow-up of returned unaccompanied minors.

Sexual exploitation and trafficking

29. The Committee reiterates its satisfaction with the numerous measures taken by the State party to combat the sexual exploitation and trafficking of children. It is nevertheless concerned that trafficking for the purposes of sexual or other exploitation is still a problem.

30. The Committee recommends that the State party:

(a) Fully implement the recommendations of the national commission of experts;

(b) Continue to implement policies and programmes in accordance with the Declaration and Agenda for Action, and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;

(c) Continue to recruit female police officers to improve communication and contacts with foreign girls and women working in prostitution;

(d) Ensure that adequate resources (human and financial) are allocated to policies and programmes in this area;

(e) Continue to undertake awareness-raising campaigns in countries of origin;

(f) Expand cooperation with countries of origin and transit;

(g) Continue to cooperate with the International Organization for Migration.

Administration of juvenile justice

31. The Committee welcomes the information received since the initial report was considered that the death penalty was abolished in 1996; that article 53 of the 1965 Young Person's Protection Act, which provided for pre-trial detention for up to 15 days, was repealed; and that a national study forum on juvenile justice, including a workshop on statistics, has been set up. However, it is concerned that the interim law of 1 March 2002 (which expires on 31 October 2002) on the temporary detention of juvenile delinquents and the creation of the Everberg Centre effectively replaced article 53 of the 1965 Act with a similar, if not more restrictive, regime. Moreover, the Committee remains concerned that under article 38 of the 1965 Act, persons under the age of 18 may be tried as adults. Overall, the Committee is concerned that the holistic approach to addressing the problem of juvenile crime advocated in the Convention, including with respect to prevention, procedures and sanctions, has not been sufficiently taken into consideration by the State party.

32. **The Committee recommends that the State party:**

(a) Establish a system of juvenile justice that fully integrates into its legislation and practice the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Guidelines for Action on Children in the Criminal Justice System;

(b) Ensure that persons under 18 are not tried as adults;

(c) With respect to the law of March 2002, and its review in October 2002, ensure, in accordance with article 37 of the Convention, that the deprivation of liberty is only used as a measure of last resort, for the shortest possible time, that guarantees of due process are fully respected and that persons under 18 are not detained with adults.

5. Optional protocols

33. **The Committee encourages the State party to ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.**

6. Dissemination of the reports

34. **Finally, the Committee recommends that in accordance with article 44, paragraph 6, of the Convention, the second report presented by the State party be made widely available to the public at large and that consideration be given to the publication of the report along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion, and the concluding observations adopted by the Committee following its consideration of the report. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.**

UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.179
13 June 2002

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Niger

1. The Committee considered the initial report of Niger (CRC/C/3/Add.29/Rev.1) at its 784th and 785th meetings (see CRC/C/SR.784-785), held on 24 May 2002 and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, which followed the established guidelines, and also takes note of the timely submission of the written replies to its list of issues (CRC/C/Q/NIG/1), which allowed for a clearer understanding of the situation of children in the State party. The Committee also notes the frank and constructive dialogue it had with the delegation of the State party. The Committee acknowledges that the presence of a delegation directly involved in the implementation of the Convention allowed for a fuller assessment of the rights of children in the State party.

B. Positive aspects

3. The Committee welcomes the establishment of the National Committee for the Survival, Protection and Development of Children in 1998 and its subregional committees, and the revitalization of the National Commission on the Reform of Civil and Criminal Legislation.

* At the 804th meeting, held on 7 June 2002.

4. The Committee notes that the State party is among the few countries which have ratified the 1961 Convention on the Reduction of Statelessness, and welcomes the ratification by the State party of the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic and Social Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination against Women.

5. The Committee welcomes the fact that the State party has ratified the ILO Convention (No. 138) on the Minimum Age for Admission to Employment and the ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

6. The Committee welcomes the efforts undertaken by the State party to involve the religious and traditional leaders in several programmes concerning children.

7. The Committee also welcomes the adoption of the National Programme of Action for the Survival, Protection and Development of Children; Law 98-12 on the Education System of the Niger; Ordinance 99-11 of 14 May 1999 on the creation of juvenile courts; the 10-year Education Plan 2002-2012; and the Poverty Reduction Strategy Paper in 2002.

C. Factors and difficulties impeding the implementation of the Convention

8. The Committee acknowledges that the two armed rebellions in the north and east of the country (1990-1995), the fact that the State party is a landlocked country and has gone through several droughts, the extreme poverty facing the State party, as well as its political instability in the last decade, and the limited availability of skilled human resources have had a negative impact on social welfare and on the situation of children and have impeded the full implementation of the Convention. Furthermore, the coexistence of customary law and statutory law impedes the implementation of the Convention in the State party, where traditional practices are not conducive to children's rights.

D. Principal subjects of concern and recommendations

1. General measures of implementation

Legislation

9. The Committee notes that new laws have been adopted by the State party to harmonize the existing legislation with the Convention. Nevertheless, the Committee remains concerned at the weak implementation of the Constitution as far as children's rights are concerned. Domestic legislation and customary law still do not fully reflect the principles and provisions of the Convention.

10. **The Committee encourages the State party to continue and strengthen its reform activities in order to ensure that its domestic legislation conforms fully to the principles and provisions of the Convention. In that respect, the Committee recommends that the State party:**

(a) Strengthen the implementation of the Constitution as far as children's rights are concerned;

(b) Undertake all the necessary steps to harmonize existing legislation and customary law with the Convention;

(c) Integrate the principles of the Convention from a rights-based approach in the National Programme of Action for the Survival, Protection and Development of Children;

(d) Consider the adoption of a comprehensive children's code which will reflect the general principles of the Convention;

(e) Consider the elaboration and adoption of a comprehensive family code.

Coordination

11. While welcoming the establishment of the National Committee for the Survival, Protection and Development of Children in Niger (Decree 011/PM/MDS/P/PF/PE of October 1998), which is represented at the local level, the Committee is concerned at the lack of financial and human resources of this body to allow it to carry out its role efficiently.

12. **The Committee recommends that the State party take all necessary measures to provide the National Committee for the Survival, Protection and Development of Children with adequate human, financial and other resources. This National Committee should also be provided with a clear mandate that includes, for example, the formulation, implementation, coordination and evaluation of the new National Programme of Action for the Survival, Protection and Development of Children. The Committee also recommends that the State party coordinate and implement programmes established under international cooperation. Finally, the Committee recommends that the State party reinforce coordination at national, regional and local levels.**

Data collection

13. The Committee is concerned that the data collection mechanism of the State party does not ensure the adequate collection of disaggregated data on all aspects of the Convention, monitor and evaluate progress achieved, or assess the impact of policies adopted with respect to children.

14. **The Committee recommends that the State party strengthen its efforts to establish a comprehensive and permanent mechanism to collect data, disaggregated by gender, age, and rural and urban area. The State party should also develop indicators to monitor and**

evaluate effectively progress achieved in the implementation of the Convention and to assess the impact of policies relevant to children. The data collection mechanism should incorporate all the areas covered by the Convention and cover all children below the age of 18 years, with specific emphasis on those who are particularly vulnerable. In this context, the Committee recommends that the State party seek technical assistance from, among others, UNFPA, UNDP and UNICEF.

Independent/monitoring structures

15. The Committee takes note of Act No. 98-55 of 29 December 1998, which led to the establishment of the National Committee on Human Rights and Fundamental Freedoms in accordance with article 33 of the Constitution. However, the Committee is concerned at the lack of an independent mechanism to monitor and evaluate effectively progress in the implementation of the Convention and empowered to receive and address complaints.

16. **The Committee recommends that the State party provide the National Committee on Human Rights and Fundamental Freedoms with adequate human and financial resources, and expedite activities aimed at the establishment of an office, for example, within the National Committee on Human Rights and Fundamental Freedoms, to monitor and evaluate effectively progress in the implementation of the Convention at the national and local levels in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134). This body should be accessible to children, empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and address them effectively. In that regard, the Committee recommends that the State party seek technical assistance from, inter alia, the Office of the High Commissioner for Human Rights and UNICEF.**

Resources for children

17. While noting the efforts of the State party to reduce poverty and to increase the budgetary allocation to education and health, and the adoption of the Poverty Reduction Strategy Paper, which identifies priorities conducive to the realization of the rights of the child, the Committee expresses its concern that, in spite of efforts undertaken by the State party, insufficient attention has been paid to article 4 of the Convention regarding the implementation to the "maximum extent of ... available resources of economic, social and cultural rights of children".

18. **In the light of articles 2, 3 and 6 of the Convention, the Committee encourages the State party to pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, especially disadvantaged groups, to the maximum extent of available resources (at the national and local levels) and, where needed, within the framework of international cooperation. In addition, the Committee recommends that the State party identify the amount and proportion of the budget spent on children at the national and local levels in order to evaluate the impact and effect of the expenditures on children. The Committee also recommends that the State party ensure the**

effective implementation of the Poverty Reduction Strategy Paper, paying special attention to the possible negative short-term impact of structural adjustment on the social rights of children.

Cooperation with civil society

19. While noting the participation of civil society in the drafting of the Poverty Reduction Strategy Paper, the Committee is concerned that insufficient efforts have been made to involve civil society in the implementation of the Convention, particularly in the area of civil rights and freedoms.

20. **The Committee recommends that the State party continue to involve systematically communities and civil society, including children's associations, throughout all stages of the implementation of the Convention, including the formulation of policies and programmes and with respect to civil rights and freedoms. In addition, the Committee recommends that the State party pursue its efforts to involve traditional and religious leaders in the implementation of the Convention.**

Dissemination/training on the Convention

21. While noting the measures undertaken to promote widespread awareness of the principles and provisions of the Convention (e.g. through radio programmes, seminars and workshops), including the translation of the Convention into four languages, the Committee is of the opinion that these measures need to be strengthened and systematized, and remains concerned that only two translations have been published. In this respect, the Committee is concerned at the lack of a systematic plan to introduce training and promote awareness among professional groups working for and with children.

22. **The Committee recommends that the State party:**

(a) Strengthen its efforts to disseminate the principles and provisions of the Convention as a means of sensitizing society about children's rights through social mobilization;

(b) Publish the text of the Convention in the two languages for which this has not been done;

(c) Systematically involve community leaders in its programmes in order to fight against customs and traditions which impede the implementation of the Convention, and adopt creative communication measures for illiterate people;

(d) Provide systematic education and training on the provisions of the Convention for all professional groups working for and with children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal and local workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers;

(e) Introduce education on human rights, including the rights of the child, into the school curricula;

(f) Seek technical assistance from, inter alia, the Office of the High Commissioner for Human Rights and UNICEF.

2. Definition of the child

23. The Committee is concerned at the difference between the minimum legal age for marriage of boys (18 years) and that of girls (15 years), which is gender discriminatory. The Committee is also concerned at the fact that the Civil Code is rarely applied in this regard and that girls can marry at a much earlier age according to customary law, which leads to a widespread practice of early marriage and early pregnancy. In addition, the Committee is concerned at the fact that the minimum age for employment is fixed at 14 years, while education is compulsory until 16 years.

24. **The Committee recommends that the State party set the same minimum age for marriage for girls and boys by increasing the minimum age for girls, and develop sensitization programmes involving traditional and religious leaders, and society at large, including children themselves, to curb the practice of early marriage. In addition, the Committee recommends that the State party harmonize the ages for child labour and compulsory education by increasing the minimum age for employment.**

3. General principles

25. The Committee is concerned that the general principles contained in the Convention, namely the right to non-discrimination (art. 2), the best interests of the child (art. 3), the right to life, survival and development (art. 6) and respect for the views of the child (art. 12), are not fully integrated into the State party's legislation and administrative and judicial decisions, or in policies and programmes relevant to children at both national and local levels.

26. **The Committee recommends that the State party appropriately integrate the general principles of the Convention, in particular the provisions of articles 2, 3, 6 and 12, in all relevant legislation concerning children and apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children. These principles should guide planning and policy-making at every level, as well as actions taken by social and health welfare institutions, courts of law and administrative authorities.**

Right to non-discrimination

27. While noting that discrimination is prohibited under the Constitution (art. 8), the Committee is concerned at the persistence of de facto discrimination in the State party. In particular, the Committee is concerned at the disparities in the enjoyment of rights and at the social discrimination experienced by children belonging to the most vulnerable groups, such as girls, children with disabilities and children living in rural areas.

28. **The Committee recommends that the State party make greater efforts to ensure that all children within its jurisdiction enjoy without discrimination, all the rights set out in the Convention, including through public education programmes and the eradication of social misconceptions, in accordance with article 2; and prioritize and target social services for children belonging to the most vulnerable groups. In addition, the Committee recommends that the State party add other grounds of discrimination to those prohibited under article 8 of the Constitution, in order to be in conformity with article 2 of the Convention.**

29. **The Committee requests that specific information be included in the next periodic report on measures and programmes relevant to the Convention undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of the Committee's General Comment No. 1 on article 29.1 of the Convention on the aims of education.**

Right to life, survival and development

30. The Committee is concerned at the incidence of infanticide committed by mothers in the State party and at the impact of mounting economic challenges and other socio-economic difficulties, as well as traditional practices which continue to threaten the right to life, survival and development of children in the State party.

31. **The Committee encourages the State party to pursue its efforts to provide greater protection and support to children whose right to life, survival and development are unduly threatened by traditional practices and the difficult socio-economic realities of the State party. In this connection, the Committee recommends that the State party strengthen its technical cooperation with, inter alia, UNICEF, UNAIDS, UNDP and WHO.**

Respect for the views of the child

32. While noting that respect for the views of the child has been introduced in Ordinance 99-11 on the creation of juvenile courts, the Committee is concerned that respect for the views of the child remains limited within the family, in schools, in the courts and before administrative authorities, and in society at large, owing to traditional attitudes.

33. **The Committee recommends that the State party develop a systematic approach to increasing public awareness of the participatory rights of children in the best interests of the child, particularly at the local levels and in traditional communities, with the involvement of community and religious leaders, and ensure that the views of children are heard and taken into consideration in accordance with their age and maturity in families, communities, schools, care institutions and the judicial and administrative systems. In that regard, the Committee recommends that the State party launch campaigns to change the traditional attitude which does not allow children to express their views.**

4. Civil rights and freedoms

Birth registration

34. While taking note of the obligation to register officially all births and the efforts undertaken by the State party to encourage birth registration, the Committee remains concerned at the large numbers of children, notably in rural areas, who are not registered at birth.

35. **In the light of article 7 of the Convention, the Committee urges the State party to strengthen its efforts to ensure the registration of all children at birth, including through awareness raising campaigns, to reinforce its efforts to facilitate birth registration procedures and to take measures to register those who were not registered at birth.**

5. Family environment and alternative care

Parental responsibilities

36. The Committee is concerned at the breakdown of family structures, notably in suburban areas, due to large families, the existence of polygamy, and lack of education, poverty and unemployment which negatively affect the upbringing and development of the child, particularly in the many larger families.

37. **The Committee recommends that the State party take all necessary measures to reinforce the capacities of families, especially families in the most precarious situation, in order to support them in bringing up their children, in the light of article 18.2 of the Convention, and to emphasize the role of fathers in that regard. In addition, the Committee recommends that the State party raise awareness in society at large concerning forced marriage and undertake a study to assess the effect of polygamy on the upbringing and development of the child.**

Separation from parents

38. The Committee is concerned at the practice of repudiation of women, which can lead to the separation of the child from his/her mother, and at the custom applicable in divorce cases which holds that children are entrusted to their mothers before they are 7 years old and to their fathers when older, without the views of the child and his/her best interests being taken into account. In addition, the Committee is concerned that the recovery of maintenance is not ensured.

39. **The Committee recommends that the State party take all necessary measures to stop these practices and reinforce its efforts to sensitize the population on the obvious negative impact and the contradiction of these practices with the best interests of the child and other relevant provisions of the Convention. In addition, the Committee recommends that the State party take all necessary measures to ensure the recovery of maintenance.**

Children deprived of their family environment

40. The Committee is very concerned that current facilities for the alternative care of children deprived of their family environment are insufficient and only available in the capital, and that many children do not have access to such assistance. In addition, the Committee expresses concern at the lack of appropriate training of staff and of a clear policy regarding the review of placements of children in alternative care.

41. **The Committee recommends that the State party urgently adopt a programme to strengthen and increase alternative care opportunities for children, inter alia through the reinforcement of existing structures, specifically extended families, the promotion of foster families, the improved training of staff and the allocation of increased resources to relevant bodies. The Committee recommends that the State party seek assistance from UNICEF in this regard.**

Adoption

42. While noting that adoption is regulated by the Civil Code, the Committee expresses concern that informal adoptions, which are generally not monitored, are widely accepted and practised in the State party and that there is no regular review of placements.

43. **In the light of article 21 of the Convention, the Committee recommends that the State party strengthen the administrative procedures for formal domestic adoptions, in order to prevent abuse of the practice of informal adoption and guarantee the protection of the rights of children. In the light of the increasing number of children deprived of a family environment, the Committee recommends that the State party promote and encourage formal adoptions and reinforce its foster care programme. Finally, the Committee recommends that the State party ratify the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption.**

Abuse and neglect

44. The Committee is concerned at the lack of awareness of and information on domestic violence, ill-treatment and abuse (sexual, physical and psychological) of children, and the insufficient financial and human resources allocated to programmes to combat the abuse of children.

45. **In the light of article 19, the Committee recommends that the State party:**

(a) Undertake studies on domestic violence, ill-treatment and abuse (including sexual abuse within the family) in order to adopt policies which will help to change attitudes and improve the prevention and treatment of cases of violence against children;

(b) Prohibit corporal punishment at home, in schools, in institutions and in the penal procedures;

(c) Consider introducing an effective system for reporting cases of abuse, including sexual abuse, of children;

(d) Investigate properly within a child-sensitive judicial procedure cases of domestic violence, ill-treatment and abuse of children, and sanction perpetrators, due regard being given to protecting the right to privacy of the child;

(e) In accordance with article 39 of the Convention, take measures to ensure the reintegration of victims as well as perpetrators;

(f) Make efforts to prevent the criminalization and stigmatization of child victims of abuse;

(g) Take into consideration the recommendations of the Committee adopted on its days of general discussion on children and violence (CRC/C/100, para. 688, and CRC/C/111, paras. 701-745);

(h) Seek technical assistance from, among others, UNICEF and UNDP.

6. Basic health and welfare

46. While taking note of the adoption of the National Health Development Plan 1994-2000, and while finding encouraging the new data on mortality rates, the Committee is deeply concerned at the still high infant, under-five, and maternal mortality rates and low life expectancy in the State party. The Committee also remains concerned that health services in the districts and local areas continue to lack adequate resources (both financial and human) and that medicines and care are too expensive and not easily accessible. In addition, the Committee is concerned that the survival and development of children in the State party continue to be threatened by early childhood diseases and that malnutrition is an acute problem. Concerns also exist at the low coverage of vaccination and at the lack of prenatal health care.

47. **The Committee recommends that the State party:**

(a) Reinforce its efforts to allocate appropriate resources and develop and implement comprehensive policies and programmes to improve the health situation of children, particularly in rural areas;

(b) Facilitate greater access to primary health services; reduce the incidence of maternal, child and infant mortality; prevent and combat malnutrition, especially among vulnerable and disadvantaged groups of children; and promote proper breastfeeding practices;

(c) Develop high-quality and affordable health care;

(d) Increase the rate of vaccination and carry out campaigns similar to that for polio;

(e) Establish midwifery training programmes to assure safe home delivery;

(f) Pursue additional avenues for cooperation and assistance for child health improvement with, inter alia, WHO and UNICEF.

Adolescent health

48. The Committee is concerned that insufficient attention has been given to adolescent health issues, including developmental, mental and reproductive health concerns, and substance abuse. The Committee is also concerned at the particular situation of girls, given, for instance, the very high percentage of early marriages and early pregnancies, which can have a negative impact on their health.

49. **The Committee recommends that the State party:**

(a) Undertake a comprehensive study to assess the nature and extent of adolescent health problems and, with the full participation of adolescents, use this as a basis to formulate adolescent health policies and programmes with a particular focus on the prevention of sexually transmitted diseases (STDs), including HIV/AIDS and early pregnancies, especially through reproductive health education;

(b) Strengthen adolescent-sensitive mental health counselling services and make them known and accessible to adolescents.

HIV/AIDS

50. While noting the launch of a programme to combat STD/AIDS, the Committee remains concerned at the increasing prevalence of HIV/AIDS amongst adults and children, and the number of children orphaned by HIV/AIDS.

51. **The Committee recommends that the State party:**

(a) Increase its efforts to prevent HIV/AIDS and take into consideration the recommendations the Committee adopted at its day of general discussion on children living in a world with HIV/AIDS (CRC/C/80, para. 243);

(b) Urgently consider ways of minimizing the impact upon children of HIV/AIDS-related deaths of parents, teachers and others in terms of children's reduced access to a family life, to adoption, to emotional care and education;

(c) Involve children in formulating and implementing preventive policies and programmes;

(d) Seek further technical assistance from, inter alia, UNAIDS.

Harmful traditional practices

52. While noting the efforts of the State party to prevent and combat harmful traditional practices, the Committee is concerned at the persistence of such practices, including female genital mutilation, the removal of the uvula, early and forced marriages, and forced feeding.

53. **The Committee recommends that the State party:**

(a) Adopt the bill to prohibit female genital mutilation;

(b) Take legislative and awareness raising measures to prohibit and eradicate all kinds of traditional practices harmful to the health, survival and development of children, boys as well as girls;

(c) Reinforce its sensitization programmes, with the involvement of traditional leaders, practitioners and the general public, to change traditional attitudes and discourage harmful practices, in particular in rural areas;

(d) Find alternative employment for practitioners.

Children with disabilities

54. While noting Ordinance 93-01-12 which sets out the minimum rules for the social protection of disabled persons, its Decree of implementation of 1996 and the study carried out in 2001, the Committee is concerned at the inadequate legal protection and the insufficient facilities and services for children with disabilities. Concern is also expressed at the limited number of trained teachers available to work with children with disabilities, as well as the insufficient efforts made to facilitate their inclusion in the educational system and generally in society. The Committee also notes with concern the inadequate resources allocated to special education programmes for children with disabilities. The Committee is further concerned at the high number of disabled children begging on the streets.

55. **In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and the recommendations adopted by the Committee at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339), it is recommended that the State party:**

(a) Take effective measures to collect adequate statistical data on children with disabilities and to ensure the use of such data in the development of policies and programmes for these children;

(b) Reinforce its efforts to develop early detection programmes to prevent disabilities;

(c) Establish special education programmes for children with disabilities and, where feasible, integrate them into mainstream schools and public life;

(d) Undertake awareness-raising campaigns to sensitize the public about the rights and special needs of children with disabilities, as well as children with mental health concerns;

(e) Increase the resources, both financial and human, allocated to special education and enhance the support given to children with disabilities;

(f) Seek technical cooperation for the training of professional staff, including teachers, working with and for children with disabilities from, inter alia, WHO and UNESCO.

Standard of living

56. The Committee is concerned about the widespread poverty in the State party and the increasingly high numbers of children who do not enjoy the right to an adequate standard of living, including access to clean drinking water, adequate housing and latrines.

57. **The Committee recommends that, in accordance with article 27 of the Convention, the State party reinforce its efforts to provide support and material assistance to economically disadvantaged families and to guarantee the right of children to an adequate standard of living. In this connection, the Committee recommends that the State party pay particular attention to the rights and needs of children when implementing its Poverty Reduction Strategy Paper and all other programmes intended to improve the standard of living in the country.**

7. Education, leisure and cultural activities

58. While noting that Act No. 98-12 sets forth the right of the child to education and the obligation of the State to make primary education compulsory and free, and welcoming the 10-Year Education Plan 2002-2012, as well as the efforts undertaken by the State party to increase the enrolment of girls, the Committee remains concerned that enrolment in schools is still low and that illiteracy is widespread. The Committee is also concerned at the gender and regional disparities in enrolment in schools, absenteeism, the high drop-out and repeat rates; the insufficient numbers of trained teachers, schools and classrooms; and the lack of relevant learning material. In the light of article 29.1 of the Convention, the Committee is also concerned at the quality of education in the State party. In addition, the Committee is concerned at the quality of education in koranic schools.

59. **The Committee recommends that the State party:**

(a) Progressively ensure that girls and boys, from urban, rural and least developed areas, all have equal access to educational opportunities;

(b) Take necessary measures to remedy the low quality of education and to ensure better internal efficiency in the management of education;

(c) Build better infrastructure for schools and provide appropriate training for teachers;

(d) Improve the education system with a view to achieving the aims mentioned in article 29.1 of the Convention and the Committee's General Comments on the aims of education, and introduce human rights, including children's rights, into the school curricula;

(e) Raise awareness of the importance of early childhood education and introduce it into the general framework of education;

(f) Encourage the participation of children at all levels of school life;

(g) Seek assistance from UNICEF and UNESCO.

8. Special protection measures

Refugee, asylum-seeking children and unaccompanied children

60. The Committee notes the adoption of Law No. 97/016 of 30 June 1997, which addresses the protection of refugees and establishes the National Commission of Refugees, and welcomes the State party's policy with regard to refugee children, but is concerned that not all births are registered.

61. **The Committee recommends that the State party implement this legislation and ensure birth registration for all refugee children born on the territory of the State party. In addition, the Committee recommends that the State party consider ratifying the 1954 Convention relating to the Status of Stateless Persons and that it continue its cooperation with international agencies such as UNHCR and UNICEF.**

Children affected by armed conflict

62. The Committee welcomes the State party's decision to review the "prytanée militaire" prior to ratifying the Optional Protocol on the involvement of children in armed conflict. In addition, the Committee notes the Peace Agreement concluded in 1995 between the State party and the various rebel groups, and the establishment of the Office of the High Commissioner for the Restoration of Peace, but remains concerned at the difficult situation of displaced persons, particularly children and women.

63. **The Committee encourages the State party to speed up the review of its "prytanée militaire". In addition, the Committee recommends that the State party reinforce its efforts to provide displaced children with adequate social services, including health care, immunization and education, and to socially reintegrate former combatants.**

Economic exploitation

64. The Committee is deeply concerned that child labour in the State party is widespread, particularly in the informal sector, and that children may be working long hours at young ages, which has a negative effect on their development and school attendance. The Committee is also deeply concerned at the existence of slavery in some parts of the country.

65. **The Committee recommends that the State party:**

(a) Adopt and implement the national plan of action to prevent and combat child labour;

(b) Provide adequate human and other resources and training to the labour inspectorate and other law enforcement agencies in order to strengthen further their capacity to monitor effectively the implementation of child labour legislation and relevant ILO Conventions;

(c) Take all necessary measures to eliminate the worst forms of child labour, including slavery, in the State party, in conformity with article 12 of the Constitution, and raise awareness among the population on this issue, involving traditional leaders;

(d) Seek innovative approaches, such as alternative education or non-formal education, to give educational opportunities to children who are older and have to work;

(e) Seek assistance from ILO.

Child beggars

66. The Committee is concerned at the number of children who are begging in the streets. The Committee notes that some of these child beggars are pupils under the guardianship of Islamic religious education teachers. The Committee is concerned at their vulnerability to all forms of exploitation.

67. **The Committee recommends that the State party prohibit child begging, introduce sensitization programmes to discourage and prevent it and take all necessary measures in collaboration with traditional and religious leaders and parents to stop this practice.**

Sexual exploitation and trafficking

68. The Committee is concerned at the increasing number of child victims of sexual exploitation, including for prostitution and pornography, especially among child labourers and street children. Concern is also expressed at the insufficient programmes for the physical and psychological recovery and social reintegration of child victims of such abuse and exploitation.

69. **In the light of article 34 and other related articles of the Convention, the Committee recommends that the State party conduct a study with a view to assessing the extent of the commercial sexual exploitation of children, including prostitution, pornography and**

trafficking; and implement appropriate policies and programmes for prevention and for the recovery and social reintegration of child victims, in accordance with the 1996 Declaration and Agenda for Action and the 2001 Global Commitment adopted by the World Congresses against Commercial Sexual Exploitation of Children.

Administration of justice

70. The Committee welcomes the adoption of Ordinance 99-11 of 14 May 1999 on the creation of juvenile courts, but remains concerned at the absence of juvenile courts and at the limited number of juvenile judges, social workers and teachers to work in this field. In addition the Committee is deeply concerned at the non-separation of children and adults in jails (with the exception of the jail in Niamey), the very poor conditions of detention, mainly due to overcrowding in detention and prison facilities, the frequent recourse to and excessive length of pre-trial detention, the very limited rehabilitation and reintegration of juveniles following judicial proceedings and the sporadic training of judges, prosecutors and prison staff.

71. **The Committee recommends that the State party take additional steps to reform the legislation and the system of juvenile justice in line with the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System.**

72. **As part of this reform, the Committee particularly recommends that the State party:**

(a) Undertake all necessary measures to ensure the establishment of juvenile courts and the appointment of trained juvenile judges in all regions of the country;

(b) Consider deprivation of liberty only as a measure of last resort and for the shortest possible time, limit by law the length of pre-trial detention and ensure that the lawfulness of this detention is reviewed by the judge without delay and then regularly;

(c) Develop alternative measures to deprivation of liberty;

(d) Provide children with legal and other assistance at an early stage of the procedure;

(e) Provide children with basic services (e.g. health care, schooling);

(f) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, in particular by establishing special prisons for

children with conditions suited to their age and needs and by ensuring the provision of social services in all detention centres in the country, and, in the meantime, by guaranteeing separation of children from adults in all prisons and in pre-trail detention places throughout the country;

(g) Ensure that children remain in regular contact with their families while in the juvenile justice system;

(h) Introduce regular medical examination of children by independent medical staff;

(i) Establish an independent child-sensitive and accessible complaints system for children;

(j) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

(k) Make every effort to establish a programme of recovery and social reintegration for juveniles in conflict with the law;

(l) Take into consideration the recommendations of the Committee presented during its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238);

(m) Consider requesting technical assistance in the area of juvenile justice and police training from, inter alia, the Office of the High Commissioner for Human rights, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

9. Optional protocols to the convention on the Rights of the Child

73. **The Committee encourages the State party to ratify and implement the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution, child pornography, and on the involvement of children in armed conflict.**

10. Dissemination of the report

74. **Finally, the Committee recommends that, in the light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records of the discussion and the concluding observations adopted by the Committee after its consideration of the report. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring in the Government and the general public, including NGOs.**

11. Next report

75. **The Committee, aware of the considerable delay in the State party's reporting, wishes to underline the importance of reporting practice which is in full compliance with the rules set out in article 44 of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee understands that the State party had difficulties in initiating the reporting process and, in order to assist the State to comply fully with its reporting obligations under the Convention, the Committee invites the State party, by way of exception, to submit its second, third and fourth reports jointly before 29 October 2007.**

UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.180
13 June 2002

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirtieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Belarus

1. The Committee considered the second periodic report of Belarus (CRC/C/65/Add.15) at its 786th and 787th meetings (see CRC/C/SR.786 and 787), held on 27 May 2002, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report, which follows the guidelines for reporting, and of the written replies, promptly submitted, to its list of issues (CRC/C/Q/BEL/2). The Committee, although regretting that only one member of the State party's delegation was directly involved in the implementation of the Convention in Belarus, notes the constructive dialogue and the positive reactions to the suggestions made during the dialogue.

B. Positive aspects

3. The Committee notes that the State party adopted a number of laws in order to further harmonize domestic legislation with the provisions of the Convention, including the new Civil Code and the new Marriage and Family Code adopted in 1999, and the revision in 2000 of the Rights of the Child Act.

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* At the 804th meeting, held on 7 June 2002.

4. The adoption in 1998 of the International Treaties Act by which norms of international treaties, such as the Convention, become part of current law and can therefore be directly invoked in courts, is welcomed by the Committee.

5. The Committee notes that, in light of its previous recommendation (CRC/C/15/Add.17 of 7 February 1994, para. 11), the National Commission on the Rights of the Child was established in 1996.

6. The Committee recognizes that, in line with its previous recommendation (ibid., para. 11) a national plan for the protection of the rights of the child 1995-2000 was adopted by Presidential Decree No. 150 of 19 April 1995 and followed up by the presidential programme "Children of Belarus" for 2001-2005, approved by Presidential Decree No. 281 of 24 May 2001.

7. The Committee welcomes the adoption in March 1999 of a National Plan for Human Rights Education covering the period 1999-2004.

8. The Committee welcomes the State party's adoption of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. It further notes that Belarus has signed The Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993, as previously recommended (ibid., para. 13).

C. Factors and difficulties impeding progress in the implementation of the Convention

9. The Committee acknowledges that, owing to economic transition, the growing poverty affecting families, especially those with many children and those living in rural areas, is still impeding the full implementation of the Convention in the State party. Further, it notes the persistence of the negative consequences of the Chernobyl nuclear plant disaster affecting the population in general and the health and development of children, in particular.

D. Principal areas of concern and recommendation

1. General measures of implementation

Previous recommendations

10. The Committee regrets that some of the concerns and recommendations (CRC/C/15/Add.28 of 24 October 1994) it made upon consideration of the State party's initial report (CRC/C/8/Add.6) have been insufficiently addressed, particularly those contained in paragraphs 11, 12, 14, and 15. Those concerns and recommendations are reiterated in the present document.

11. **The Committee urges the State party to make every effort to address the recommendations contained in the concluding observations on the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.**

Legislation

12. The Committee, while noting the various legislative measures taken with respect to child rights, reiterates its concern (CRC/C/15/Add.17, para. 6) as to the full compatibility of the national legislation with the provisions and principles of the Convention. It is also concerned that the legislation does not sufficiently reflect the comprehensive rights-based approach of the Convention.

13. **The Committee recommends that the State party:**

(a) Continue its comprehensive review of existing legislation from a rights-based perspective, in order to ensure its full conformity with the principles and provisions of the Convention;

(b) In this regard, consider seeking assistance from, among others, UNICEF.

Coordination

14. The Committee, while acknowledging the efforts made by the State party in improving coordination by establishing the National Commission on the Rights of the Child in 1996, notes with concern that the National Commission has basically a consultative status. It further notes that the implementation process of the presidential programme "Children of Belarus" for 2001-2005 is monitored and reviewed.

15. **The Committee reiterates its recommendation (ibid., para. 11) that the State party ensure the establishment of a permanent body to coordinate the implementation and monitoring of the rights of the child at national and local levels, including by effectively coordinating activities between central and local authorities and cooperating with NGOs and other sectors of civil society.**

Independent monitoring

16. The Committee, while taking note of the ongoing discussions on the establishment of an independent monitoring body, expresses its concern at the absence of an overall national mechanism with a mandate regularly to monitor and evaluate progress in the implementation of the Convention and which is empowered to receive and address complaints by children.

17. **The Committee encourages the State party to establish an independent and effective mechanism in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134), either as a part of a national institution on human rights or as a separate body, such as a children's ombudsman, which should be provided with adequate human and financial resources and easily accessible to children, that:**

(a) Monitors the implementation of the Convention;

(b) Deals with complaints from children in a child-sensitive and expeditious manner; and

(c) Provides remedies for violations of their rights under the Convention.

In this regard, the Committee further recommends that the State party consider seeking technical assistance from, among others, UNICEF and OHCHR.

Resources for children

18. While noting the efforts by the State party to prevent the decline in living standards of the population, the Committee expresses its concern that budgetary allocations for children are still insufficient to respond to national and local priorities for the promotion and protection of children's rights and to overcome and remedy existing disparities between rural and urban areas with respect to services provided to children.

19. **In light of article 4 of the Convention, the Committee encourages the State party:**

(a) To continue its efforts to prevent, including through a comprehensive poverty reduction strategy, the decline in living standards of families, in particular those with many children, those living in rural areas and single parent families;

(b) To identify clearly its priorities with respect to child rights issues in order to ensure that funds are allocated to the maximum extent of available resources and, where needed, within the framework of international cooperation for the full implementation of the economic, social and cultural rights of children, in particular for children belonging to the most vulnerable groups in society; and

(c) To identify the amount and proportion of the budget spent on children at the national and local levels in order to evaluate the impact and effect of the expenditures on children.

Data collection

20. The Committee expresses its concern that data are not disaggregated for all areas covered by the Convention. It further notes that data on children are not used in an adequate manner to assess progress and as a basis for policy-making in the field of children's rights.

21. **The Committee recommends that the State party:**

(a) Strengthen its mechanism to collect and analyse systematically disaggregated data on all persons under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups, including children of economically disadvantaged households, children living in rural areas, children in institutions, children with disabilities, and children affected by the consequences of the Chernobyl disaster;

(b) Use these indicators and data effectively for the formulation and evaluation of policies and programmes for the implementation and monitoring of the Convention;

(c) Seek technical assistance from UNICEF in this regard.

Cooperation with civil society

22. Despite the recent establishment of several non-governmental organizations, the Committee expresses its concern that insufficient efforts have been made to involve civil society in the full implementation of the Convention, particularly in the area of civil rights and freedoms. It further notes with deep concern that non-governmental organizations are subjected to difficult procedures for registration and that foreign funding in particular is restricted, which may limit their effectiveness and independence.

23. **The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention, including with respect to civil rights and freedoms. The Committee reiterates its recommendation (ibid., para. 12) that the State party:**

(a) Consider involving non-governmental organizations, especially rights-based ones, and other sectors of civil society working with and for children more systematically throughout all stages of the implementation of the Convention, in particular with respect to civil rights and freedoms;

(b) In line with the Human Rights Committee's recommendation (CCPR/C/79/Add.86, para. 19), review without delay laws, regulations and administrative practices in order to facilitate the registration and activities of non-governmental organizations.

Training/dissemination of the Convention

24. The Committee, while acknowledging that there have been efforts to disseminate the Convention and to train professionals working with and for children in line with its previous recommendation (ibid., para. 17), nevertheless finds that these measures need to be strengthened.

25. **The Committee recommends that the State party:**

(a) Develop more creative methods to promote the Convention, including through audiovisual aids such as picture books and posters, in particular at the local level and through the media;

(b) Continue and strengthen its efforts to provide adequate and systematic training and/or sensitization on children's rights of professional groups working with and for children, such as judges, lawyers, law enforcement and health personnel, teachers and school administrators;

(c) In particular provide adequate training to the judiciary on the impact of the International Treaties Act of 1998 and the possibility of directly invoking the Convention in courts; and

(d) Seek technical assistance from, among others, UNICEF, UNESCO and OHCHR with a view to involving non-governmental organizations and other sectors of civil society.

2. General principles

General principles

26. The Committee is concerned that the principles of non-discrimination, best interests of the child (art. 3), right to life, survival and development of the child (art. 6) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at both national and local levels.

27. **The Committee reiterates its previous recommendation (ibid., para. 11) that the State party:**

(a) Appropriately integrate general principles of the Convention, namely articles 2, 3, 6 and 12, in all relevant legislation concerning children;

(b) Apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children; and

(c) Apply these principles in planning and policy-making at every level, as well as in actions taken by social and health welfare and educational institutions, courts of law and administrative authorities.

Non-discrimination

28. The Committee is concerned that the principle of non-discrimination is not fully implemented for children of economically disadvantaged households, children living in rural areas, children in institutions, children with disabilities, Roma children and children affected by Chernobyl, especially with regard to their access to adequate health care and educational facilities.

29. **The Committee recommends that the State party:**

(a) Monitor the situation of children, in particular those belonging to the above-mentioned vulnerable groups, who are exposed to discrimination; and

(b) Develop, on the basis of the results of this monitoring, comprehensive strategies containing specific and well-targeted actions aimed at eliminating all forms of discrimination.

30. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29 (1) of the Convention (aims of education).**

Respect for the views of the child

31. Noting the provisions which allow the child to be heard, the Committee is concerned that judges or other decision-making bodies have too much discretionary power in that regard.

32. **In light of article 12, the Committee recommends that the State party:**

(a) Make sure that all children mature enough to express their views are heard in all judicial and administrative procedures affecting them; and

(b) Undertake campaigns to make parents, professionals working with and for children and the public at large aware that children have the right to be heard and to have their views taken seriously.

3. Civil rights and freedoms

33. The Committee notes with concern that the implementation of articles 13, 15 and 17 is limited.

34. **The Committee recommends that the State party guarantee to all children the full implementation of the rights to freedom of expression, freedom of association and peaceful assembly and access to appropriate information, recognized in articles 13, 15 and 17 of the Convention.**

4. Family environment and alternative care

Parental responsibilities

35. The Committee notes with deep concern the spreading phenomenon of family disintegration in Belarus, including the high rate of divorce, the growing number of single-parent families and cases of parental neglect. While noting that the State party is taking some measures to strengthen families such as the Law on Allowances to Families with Children of 1 April 2002, it expresses its concern that there is no coordination between public agencies dealing with family-oriented policies, including the implementation of a poverty reduction strategy, very little preventive action, and that professional social workers are not trained enough to deal with dysfunctional families.

36. **In light of article 18 of the Convention, the Committee recommends that the State party:**

(a) Continue to develop measures for the prevention of family disintegration and the strengthening of family development;

(b) Improve social assistance and support to families to help them with their child-rearing responsibilities, including through parental education, counselling and community-based programmes;

(c) Provide adequate training to social workers;

(d) Seek international assistance from, among others, UNICEF.

Children deprived of a family environment

37. Noting the official priority policy on deinstitutionalization included in the Marriage and Family Code, the Committee expresses its serious concern about the high number of children, including children with disabilities, who are deprived of a family environment and placed in institutions, because foster care or other forms of family-based alternative care are not sufficiently developed and available. In addition, it notes with concern that institutions, owing to a lack of resources, provide children with very low quality housing and care and that children lack effective mechanisms to communicate concerns and complaints about their placement.

38. **In light of article 20 of the Convention, the Committee recommends that the State party:**

(a) Take effective measures, including the development of strategies and awareness-raising activities, to prevent and reduce the abandonment of children;

(b) Take effective measures to increase and strengthen foster care, family-type foster homes and other family-based alternative care;

(c) Place children in institutions only as a measure of last resort;

(d) Take all necessary measures to improve conditions in institutions;

(e) Provide support and training for personnel in institutions, including social workers;

(f) Establish effective mechanisms to receive and address complaints from children in care, to monitor standards of care and, in light of article 25 of the Convention, to establish periodic review of placements;

(g) Provide adequate follow-up and reintegration support and services for children who leave institutional care.

Abuse and neglect

39. The Committee expresses its concern about the insufficient information and awareness of the ill-treatment and abuse of children in the home, in schools and in other institutions.

40. **In light of article 19 of the Convention and in line with its previous recommendation (ibid., para. 40), the Committee recommends that the State party:**

(a) Undertake studies on domestic violence, violence against children, ill-treatment and abuse, including sexual abuse, and implement the statistical system created to keep a record of incidents of physical and mental violence and neglect against children, in order to assess the extent, scope and nature of these practices;

(b) Adopt and implement effectively adequate measures and policies to prevent and combat ill-treatment and abuse of children, including public campaigns, and to contribute to changing attitudes;

(c) Investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy;

(d) Prohibit all forms of corporal punishment at home, in schools and other institutions and develop measures to raise awareness on the harmful effects of corporal punishment, and promote alternative forms of discipline in families to be administered in a manner consistent with the child's dignity and in conformity with the Convention;

(e) Take measures to provide support services to children in legal proceedings and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention;

(f) Take into account the Committee's recommendations, adopted at its days of general discussion on "Violence against children within the family and in schools" (see CRC/C/111) and on "State violence against children" (see CRC/C/100); and

(g) Seek, in this regard, international cooperation and technical assistance from, among others, UNICEF and WHO.

5. Basic health and welfare

Health and health services

41. The Committee, while noting efforts to reorganize maternity and childcare services and various programmes to improve children's health, is concerned about the increase in child morbidity, including the increase of HIV in newborns, the almost epidemic scope of tuberculosis, and the high incidence of iodine deficiency and nutrition problems, especially

among children from low-income households and families with three and more children. It further notes the high rates of transport and motor vehicle accidents and the high rates of suicide which also affect children.

42. **The Committee recommends that the State party:**

(a) Continue to implement the WHO Strategy on Promoting Effective Perinatal Care in order to further decrease maternal, perinatal and infant mortality;

(b) Ensure that all children, in particular children from the most vulnerable groups, have access to free basic health care of good quality;

(c) Develop a national policy in order to ensure an integrated and multidimensional approach to early childhood development, with a focus on health and nutrition;

(d) Address the increase in HIV in newborns, focusing on the prevention of mother-to-child transmission;

(e) In order to prevent childhood injuries, develop adequate legislation to protect children from accidents and injuries, include the prevention of injuries in national policy priorities and objectives, and develop injury-control programmes;

(f) Undertake a comprehensive and multidisciplinary study to assess the extent of and reasons for suicide among children and develop adequate policies and programmes to prevent and combat this phenomenon; and

(g) Continue technical assistance from, among others, WHO and UNICEF.

Adolescent health

43. The Committee notes with concern the rise in the number of children and adolescents addicted to drugs, alcohol and tobacco, the high number of teenage abortions and the growing number of cases of HIV/AIDS among the youth.

44. **The Committee recommends that the State party:**

(a) Implement in an effective way the comprehensive nationwide programme "Medical and recuperative activities targeted at adolescents" for the period 1999-2003 and the National Strategic Plan for HIV Prevention for 2001-2003, and increase its efforts to promote adolescent health, including mental health, policies. Particular attention should be given to reproductive health and substance abuse, and the programme of health education in schools should be further strengthened;

(b) Undertake a comprehensive and multidisciplinary study to assess the scope and nature of adolescent health problems, including the negative impact of sexually transmitted diseases and HIV/AIDS, and continue to develop adequate policies and programmes;

(c) Undertake further measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular as regards reproductive health, and to develop youth-sensitive and confidential counselling, care and rehabilitation facilities that are accessible without parental consent when this is in the best interests of the child; and

(d) Seek technical cooperation from, among others, UNFPA, UNICEF, WHO and UNAIDS.

Environmental health

45. The Committee notes with concern the persisting negative consequences of the Chernobyl disaster, including the increase of cases among children of various diseases, including cancer, immunological deficiencies and anaemia. It further notes that assistance to people affected by the Chernobyl disaster is strictly humanitarian rather than focused on long-term policies.

46. **The Committee recommends that the State party:**

(a) Continue to improve the specialized health care provided to children affected by the Chernobyl disaster, including its psycho-social aspect;

(b) Strengthen its efforts at early detection and prevention of diseases related to nuclear contamination;

(c) Focus more on a long-term developmental approach to assistance to people.

Children with disabilities

47. The Committee, while noting efforts to integrate children with disabilities, expresses its concern at their increasing number and at the practice of institutionalizing them. It further notes with concern that there is insufficient support to families with disabled children.

48. **In light of article 23 of the Convention, the Committee recommends that the State party:**

(a) Undertake studies to determine the causes of and ways to prevent disabilities in children;

(b) Undertake measures to ensure that the situation of children with disabilities is monitored in order to assess their situation and address their needs effectively;

(c) Conduct public awareness campaigns to raise awareness of the situation and the rights of children with disabilities;

(d) Allocate the necessary resources for programmes and facilities for all children with disabilities, especially the ones living in rural areas, and strengthen community-based programmes to enable them to stay at home with their families;

(e) Support the parents of children with disabilities with counselling and, when necessary, financial support;

(f) In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on "The rights of children with disabilities" (CRC/C/69, paras. 310-339), further encourage their integration into the regular educational system and inclusion into society, including by providing special training to teachers and by making schools more accessible.

6. Education, leisure and cultural activities

Education

49. The Committee, while acknowledging the State party's efforts to include human rights in school curricula, notes with concern that the availability of education in the Belarusian language is becoming increasingly limited, from early childhood to secondary education. Further, it notes that the number of children in secondary education is decreasing and that education standards, particularly in the secondary system, vary greatly to the disadvantage of lower-income neighbourhoods and rural areas.

50. **In light of articles 28 and 29 of the Convention, the State party should:**

(a) Ensure the availability of education in the Belarusian language and the accessibility for Roma children and those belonging to other minorities to good quality education;

(b) Improve the quality of education in the whole country in order to achieve the goals mentioned in article 29, paragraph 1, in line with the Committee's general comment No. 1 on the aims of education.

7. Special protection measures

Trafficking, sexual and other forms of exploitation

51. The Committee is concerned about the information that Belarus is a country of origin and transit for the trafficking of children, in particular girls, for the purpose of sexual and other forms of exploitation. The Committee notes that there is a lack of information and knowledge about this phenomenon and about problems such as sexual exploitation, drug abuse and the involvement of children in the drug trade, and economic exploitation, often related to trafficking.

52. **In light of articles 32 to 36 of the Convention, the Committee recommends that the State party:**

(a) Undertake a study on the issue of trafficking and trafficking-related problems, such as sexual exploitation, drug abuse and the involvement of children in the drug trade, and economic exploitation, in order to assess their scope and causes, and develop and implement effective monitoring and other measures to prevent them;

(b) Combat and eliminate child trafficking, sexual exploitation, drug abuse and trade and economic exploitation, including by developing social integration programmes; and

(c) Develop and adopt a national plan of action against sexual and commercial exploitation of children, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.

Administration of juvenile justice

53. The Committee reiterates its serious concern (ibid., para. 10) regarding the situation in relation to the administration of juvenile justice. While noting that under the new Penal and Penal Procedure Codes juvenile cases can be considered by specially trained judges and that there is a debate about whether to set up a separate branch for juvenile justice, it expresses its concern that a comprehensive system has not yet been established, that prosecutors and lawyers are not trained to handle juvenile cases, that detention is not used as a last resort and that alternative measures to detention are seldom applied. Further, it is noted that conditions in juvenile detention centres are very poor and offer little possibility of rehabilitation.

54. **The Committee recommends that the State party:**

(a) Expedite the establishment of a specific system of juvenile justice, and ensure its full independence and adequate human and financial resources;

(b) Continue to review laws and practices regarding the juvenile justice system in order to bring it as soon as possible into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);

(c) Ensure that all persons under 18 benefit from special protection measures in the field of the administration of juvenile justice;

(d) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law, and ensure that children are always separated from adults;

(e) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;

(f) Strengthen preventive measures, such as supporting the role of families and communities in order to help eliminate the social conditions leading to such problems as delinquency, crime and drug addiction;

(g) Incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment;

(h) In light of article 39, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system;

(i) Seek assistance from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

8. Dissemination of reports

55. **Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the second periodic report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the parliament and the general public, including concerned non-governmental organizations.**

9. Periodicity for submission of reports

56. **The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by State parties is crucial. The Committee recognizes that some States parties experience difficulties in submitting timely and regular reports. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its combined third and fourth periodic reports by 30 October 2007, due date for the submission of the fourth periodic report.**